G. R. S. IX-5]

Previous references.

1895

~~191~~ .

(Courts)

Later references.

File No. 2-1895

Serial Nos. 1-9

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 – 9.

Major ~~Part B~~ for Jan 97

SUBJECT.

Memorial addressed to H. H. the Maharani Regent by Kasim Saib Sentenced to death by the Chief Court.

S. 9. No. 8106-J. 960 d. 18.1.97 to the Regr. Chief Court. Forwards copy of the order passed by H.H. the Maharani Regent on the appeal of Kasim Saib.

Comm. marked

W D 88—GPB—50,000—24-7-16

Indexed

Indi

The Dt Magistrate of Lyons has consulted the Govt Adv. about the case. His letter conveying his opinion that an appeal can be preferred against the order of acquittal and the memo. of appeal are also subd by the Dt Mag.

The date of acquittal is 30: Octr 1855 and it will be time-barred by 30: April 1856.

Lieut
J.P.

Subd to Secretary

The Sessions Judge's attempt to explain away the wealthy departure, at 5 A.M. of the accused and the blood stains on his cloth appear to be particularly weak. A quarrel owing to refusal to sleep, a fit of lust + anger + a murder as the result, appear to be the true facts of the case

Subd to Secretary J.P.
20/5

Lodged by Mr Jamieson.

The case appears to be sufficiently strong to justify an appeal being filed - CJ

20/3/96

Conveyancing
Atty appeal temp
prepared - we need
not comment on the
order - nor give any
reasons. Simply say, as
read by the Deputy
letter in writing.

As the Court adopts
as I assume that
this is a fit case for
appeal, appl the order
& against and that
there are good prima
reasons for doing so,
the Court are pleased
to grant the certificate
applied for under the
provisions of 417 Corp Code

20/3/96 CJ

Appl accordingly 21/3/96

5286

Inland letter Premier Division [illegible]

The execution of the sentence has been stayed pending orders on the memorial which therefore requires early disposal [illegible]
23-12-96

Prisoner Kassim Said alias Hassan Said

Section

File No.

Serial No.

1. No. of case. Criminal Case No. 22 of 1895-6

on the file of the First Class Magistrate

Mysore District.

Mysore Sessions Case

No. 8 of 1895-6, and Criminal

appeal Case No. 201 of 1895-6

on the file of the Chief Court

2. Court or Courts which tried it, First Class Magistrate's Court, Mysore.

The District and the Sessions Court of the Ashtagram Division.

3. Nature of sentence originally passed and ~~confirmed or~~ altered in appeal. ~~Sentenced to~~ Acquitted by the sessions judge, Ashtagram on of murder but ~~on~~ convicted on appeal by the Chief Court & sentenced to death

4. Date of sentence. 14th November 1896.

I send the these papers to Councillors together with my remarks on the paper to next below — 23/12/96

Vide my opinion for the side of the Divan Nuzrat
26-12-96

Circulated to 2 Councillors

This seems to have been sent to me again I mistake. Passed on to 2 Councillors with my further opinion
23/12/96

Rect 26/12/96

Memo.

The prisoner Kasim Sab alias Hussain Sab was charged before the Mysore Sessions Court with murder of his wife Ameena Bi (S. 302 I.P.C) and with culpable homicide not amounting to murder (S. 304 I.P.C). He was, however, acquitted by the Sessions Judge on the ground that there was no direct evidence of the murder, and that the evidence about the quarrel (alleged to have led thereto) was meagre and unsatisfactory.

2. On appeal by Govt., the Chief Court held that, from medical and other evidence, there was no doubt that death was due to fracture of the skull caused by a stone, that there was credible evidence of a quarrel between husband and wife on the night in question, that the accused's attempt to set up an alibi could not be believed, that certain blood-stains on his clothing afforded connected him with the crime, which was further established by his confession before the Committing Magistrate, tho' subsequently retracted.

Court murder. All

3. The Chief Court, therefore, convicted him of murder, and sentenced him to death: it did not appear to them that there was grave and sudden provocation because in his original confession he said he did not know whether his wife was sleeping or not when he threw the stone at her, and because none of the neighbours heard any cries.

4. In the present Memorial, the prisoner, while protesting his innocence, merely asks for a commutation of the death sentence.

20/12/96

No 5262

Sealed Brief C

21-12-96

There are no suffl
grounds for the exercise
of the prerogative of mercy
& I humbly advise the
rejection of the memorial C.

Thinks

21/12/96

Sealed to the Dewan C

22-12-96

I agree that there were no extenuating circs such as would justify the Circuit Court to pass the sentence of transportation for life in lieu of one of death - But as the Sessions Judge had acquitted 4 the Chief Ct convicted, the sentence of death on both seems to be unduly severe and such as may be commuted to transportation for life upon the present memorial — Ordinary humanity (a consideration which Courts not meigh with the Chief Ct.) calls, I think, for such commutation —

The Sessions Judge's proceedings show the worst side he is made of. This of course with an observation irrelevant for present purposes. V

Recommended
23 Dec 96

Note
Thos Queiroz
Asst in Chronological
Order Case after
Mr Hutchinson's
& the Enclosure
out a separate heap
by

I agree with the Dewan - Under the circumstances I wd. recommend the commutation of the sentence, without enquiring the Chief Ct. which has done which it thought proper in sentencing the accd. & forwarded on his memorial for mercy at the hands of the Sovereign - Why in this case the Chief Court for an opinion in this case, which we may or may not accept

26/12/96
Abdul Rahman

If I am allowed to express a further opinion I would with much deference add the Court :—

Cuts from here in the Resolution

in the absence of any recommendation for mercy by the Court which, after a careful consideration of the case, passed the sentence of death, and in the face of the express finding by the said Court, that there were no extenuating circumstances to justify the passing of the alternative sentence of transportation for life, it would appear to me that the Executive should not interfere with the course of justice by intervening with the sentence legally passed and ensuring the prerogative of mercy in a case like this - such a

procedure would
form a most
inconvenient and
dangerous precedent

A. P. Thumboo Chetty

23. 12. 96

I do not hesitate to
have a copy of the
Supreme Court Procedure
Code just now but
I believe there is a provision
analogous to S. 440 of the
Bri. Cri. Pro. Code.
If so I think this is a
fit case in which under
the second head we may
ask the learned Judges of
the Supreme Court to state their
opinion as to whether the reduction of punishment
letting it be as granted
application should be granted
or refused, together with their
reasons for such opinion.
My reasons for suggesting this course
is that the Judges in sentencing the prisoner
say that "they" have no option but that
of passing a sentence of death." If this was
not their view of their legal duty
they would have perhaps chosen a

Mr. Lascelles
read the Supreme
Code & the
provision is
exactly in the
same words
as the British
Code —

milder punishment - they have then - statement appears to be somewhat doubtful & this may be cleared -

I may perhaps observe & this stage that according to certain authorities transportation or the milder form of punishment has been held to be adequate in where a murder was rather retaliation for an injury inflicted on the murderer than one prompted by any worse passion & In the present case an inference consistent with the conclusion arrived at by the Court is that the murder was prompted by a feeling of produced by the unfaithfulness of the wife & ~~[illegible]~~ - otherwise the confession becomes weak & the act of murder would be without a motive

Stokes' Sde Substantive Law. Page 210

ent & con
tion pendente.

24/12/96 Muthusamy Iyer J

~~I would observe in reply to Mr Hunt~~

(Here insert Mr Abdul Rahiman's Opinion)

"I agree with the Decision. Under the circumstances, I would recommend the commutation of the sentence, without requiring the Privy Council which has done what it thought proper in declining to entertain, and dismissed an Appeal for mercy at the hands of the Sovereign. Why in this case they should Council for an opinion which we may or may not accept."

26/12/96 (Sd) Abdul Rahiman.

In reply to Mr Thumboo Pillai's remarks, I would observe that I proposed Commn, not on any legal aspect of the case, but on Considerations of humanity imposed upon us by the S. Judges' wrong acquittal

As regards Mr Christie's Minute suggesting I think that S. 401. is not strictly applicable

to the present Case, where Commutation (& not remission or Suspension) is pressed. & moreover any opinion which the Chief Court can give must be based upon the ~~merits of~~ facts of the Case, & not upon the Consideration which I have Suggested — I therefore think no reference to Chief Ct is req^d.

I wd like the question placed before the Council at its next meeting

27.12.96

I circulate again & place before next meeting of Council

28-12-96

Seen 28/12/96

Seen 28/12/96

5/1/97

Resolved

That the memorial of be submitted to H.H. the Maharaini Regent with a recommendation that the Sentence of

passed
death ~~Sentence~~ upon the memorialist be
Commuted to one of transportation
for life —

Mr. Thumboo Chetty dissents for
reasons ~~in his~~ as per ~~after minutes~~
following minute -

9/1/95

In the Matter of a Memorial from Convict Kassim Saibi alias Hassain Saibi praying for a commutation of the sentence of death passed upon him by the Chief Court in Criminal Appeal No. 201 of 1895-96.

Her Highness the Maharani-Regent

has been pleased to pass the following

Order.

The Memorialist was tried for the Offence of Murder & acquitted by the Sessions Judge of Cuttapanam on the 30 Oct 1895. Upon Appeal from such acquittal preferred by the Govt he was Convicted by the Chief Court on 14 Nov 1896 and Sentenced to Suffer the extreme penalty of the law. In Consideration of these circs the Sentence of Death which has been passed upon him is as an act of Mercy hereby Commuted to one of transportation for life

Bangalore 10 January 1897

by

Kempaiahgaru

No 5665

Rec'd from Madras
18/1/97

Inst. X X

Issue at once & then send
- not the Asst to the Agt
for Memorial C.

18-1-97.

Issued
18-1-97

Seen
19/1/97

20/1

I had
ordered the
Sovt. Advocate
further information
& the enclosed letter
was received in the file 11-1-97
placed in the file
which was dealt with Bangalore no.
My dear Sir, the other day
the other person has
of the Govt. 15/1/97
Secy

In the case reported in To. Secy
2 Calcutta L.R. 273, the
High Court has sentenced
the persons to death on an
appeal against acquittal.
The persons in that case had
been sentenced to transpor-
tation for life by the sessions
Judge under section
304 I.P.C. which was altered
under section 302. I. P. C.

I am not aware of any case
on which any High Court
declined to interfere on the
ground that the prisoner
had been acquitted by
the Sessions Judge.

In a certain criminal
case heard last Friday
& Saturday and one heard
to-day, I refused
to [illegible] I could not
reply your letter earlier
as I was engaged
the whole day.

Yours faithfully
Ramaswami

I have informed
the Secretary of this -
Tel-Aviv - avoté 80
avec convict Hapoel
Hatzeir Jude C
25 - 1 - 97 -

W 3024

Gen. 31

1

1896

OFFICE OF THE EWAN OF MYSORE
7788
18 MAR 1896
J 1182

Session Cowper From
Case No 2-95
Serial No 1 To

The District Magistrate
of Mysore.

The Secretary to the Government
of Mysore,
Revenue and General Dept.

Dated 14th March 1896.

Despatched

Received 18 — — —

General No.
No. 1152

Enclosure No. Memo, copy of letter & two files of records.

Soliciting permission to appeal against the order of acquittal passed in Mysore Sessions case No. 8 of 1895-96.

J 1873/96

(1)

No. 1152.

Office of the District Magistrate of Mysore,
Dated Mysore, 14th March 1896.

To

The Secretary to the Government of Mysore
Revenue and General Departments.

Sir,

I beg to state that one Khassim Sab of Gundlupett was committed for trial before the Sessions Court of the Ashtagram Division on charges of murder under sections 302 and 304 of the Indian Penal Code. But the Sessions Judge acquitted him. The evidence against him being sufficient for conviction, a memorandum of appeal against the acquittal was drawn up and sent to the Government Advocate for opinion as per standing orders of Government. He, in his letter No. 134 of the 4th March 1896, opines that this is a fit case for an appeal being preferred against the order of acquittal. The record of the case (No. 8 of 1895-96 on the file of the Sessions Judge of the Ashtagram Division together with that of the committing magistrate viz: No. 22 of 1895-96 on the file of the 2nd Assistant Commissioner Magistrate of Mysore) is herewith submitted together with the appeal memorandum and a

copy

copy of the Government Advocate's letter. Permission is solicited under section 417 of the Criminal Procedure Code to prefer an appeal.

I have the honor to be,

Sir,

Your most obdt. servant,

District Magistrate of Mysore.

Compd. 11/4. MMC

No. 134
En- Memo
and 2
files.

GOVERNMENT OF MYSORE

(a)

Office of the Government Advocate
in Mysore,
Bangalore 4th March 1896.

From

The Government Advocate
in Mysore.

To

The District Magistrate
of Mysore

Sir,

With reference to your letter No. 1495 dated 24th ultimo, I have the honor to state that this is a fit case for appeal.

The accused has made two confessional statements and even when he subsequently retracted he admits that he left the house on the day of the occurrence at 6 P. M. to Pettah to work as a cooly and returned home next morning at 5 A. M. and finding his wife dead left the place being afraid. This in a measure supports the previous statements. Before the Sessions Court he admits that the "Dupoy" Exhibit E' and jacket exhibit E² are his which contain blood stains and which he attributes to his having fallen upon the deceased crying. This is inconsistent with the statement that he

ran away being afraid. He also admits that he has no suspicion against anybody for having killed his wife. There is clear and unimpeachable evidence of the witnesses to prove that there was a quarrel between him and his wife on the night of the occurrence and that the accused was in the house that night. This corroborates materially the confessional statements of the accused.

In conclusion, I am of opinion that a strong case has been made out against the accused.

The memo and the files of records are herewith returned.

I have &c.

Sd/ S. Ramaswamier

Government Advocate.

Copy.

[illegible]

District Magistrate

of Mysore.

MFL

Compd. [illegible]

No: 10980 / 1207 dt 24-3-96.

Read

Section	Cowle Letter
File No	2-95
Serial No	2

from the

Dr. 1152 of 14.3.96 District Magistrate

of Mysore submitting the

records in Criminal case

No. 8 of 1895-96 on the file

of the Sessions Judge of

Ashtagram division together

with the appeal memorandum

and a copy of the Govt. Advo-

cates letter on this subject, and requesting

that for the reasons stated

the permission of Govt. under

Section 417 of the Code of

Criminal Procedure, to

prefer an appeal against

the order of acquittal

passed by the Sessions Judge

in the said case.

Order thereon.

As the Government

Advocate is of opinion that

this is a fit case for

appealing against the

order of acquittal referred

to and that there are good

and

~~[illegible]~~

are sufficient reasons
for doing so. The Govt.
are pleased to accord
the sanction applied
for under the provisions
of Section 417 of the
Code of Criminal Procedure.

C.
24/3/96
Secretary.

To

The District Magistrate
of Tuticorin returning
the records.

No 5073

(3)

Gen. 31.]

Courts

No 2-95

No From

OFFICE OF THE 189
45-45
30-11-96
DEWAN OF MYSORE 2664

Sealed Packet.

The Government Advocate in Mysore

To

The Secretary to the Government of Mysore.

Dated 26th November 1896.

Despatched

Received do

General No. 77
No.

Enclosure No 1

Forwarding for information a Copy of the Judgment passed by the Chief Court in Criminal Appeal No. 201 of 1895-96 Govt — Kasim Sab.

Have an explanation from the Hospital Assistant where they may see Dr and Extract from the Report by the Medical Surgeon for such action as he may deem proper to take?

Yes. In addn 2-12-96 the Extract from the Insp Genl's memo should be Extracts from the Order of the authorities referred to in the Insp Genl. The Chief may be moved to send the Record to us in due time

Yes 4/12/96

may send Extracts therefrom — also the post mortem Report &c.

AM

4/12/96

Send the Chief Court's Record in the Kasim Saib case for reference &c

3/12/96

Send the necessary extracts from the Record

Q.

Jmd
27.11.96

Refers pursup

DMR
1/12/96

Submitted to Govt.

There being, according to the Chief Court, no direct evidence as to the details of the Quarrel which resulted in the woman's death, it is perhaps a question whether the death sentence may not be commuted.

1/12/96

Office of the Government Advocate
in Mysore.

No. 77
Ex No. 1

Bangalore 26th November
1896.

From

The Government Advocate
in Mysore

To

The Secretary to the
Government of Mysore.

Sir,

With reference to the Proceedings of the Government Order, No. 10980/J 1207, dated 24th March 1896, I have the honor to forward for information a copy of the judgment passed by the Chief Court in Criminal Appeal No. 201 of 1895-96.

Government ~~v.~~ Kasoin Sub.

I have the honor to be
Sir,
Your most obedient Servant.

S Ramaswamy
Government Advocate

(3/a)

In the Chief Court of Mysore at Bangalore

Saturday the 14th day of November 1896.

Present

Mr. Justice J. W. Best, Chief Judge.

and

Mr. Justice C. Meenachaya, Judge

Criminal Appeal No. 201 of 1895-96.

Government of Mysore — Appellant.

(By the Government Advocate
on behalf of Government).

V.S.

Kassim Sab alias
Hussain Sab } — Respondent.
(Accused).

Appeal against the order
of acquittal passed by the Sessions
Judge of Mysore in Mysore Sessions
Case No. 8 of 1895-96.

This appeal coming on for
hearing

hearing on Friday the 13th day of November 1896, the Court delivered the following

Judgment

This is an appeal by Government against the order of the Sessions Judge of Astagram Division acquitting the Accused, who was tried on a Charge of murdering his wife — Ameena Bi. On the morning of the 13th August last, the 2nd witness Fatima Bi went to the house of the deceased to fetch a pestle when, receiving no answer to her calls, she pushed the door open and found the deceased lying with blood about her. The witness called out, and other witnesses came to the place and found Ameena Bi was dead with a wound in her head and a

stone

stone lying near. The medical evidence is to the effect that the death was the result of fracture of the skull, caused by external violence. The medical evidence is not altogether satisfactory, as the Hospital Assistant contradicts the other witnesses by saying there were "no external injuries in the head" but it is clear from the evidence that the skull was fractured. The Accused in his first statement (H) before the Committing Magistrate admitted that he threw a stone at the head of his wife and then ran away. He subsequently retracted this statement before the same Magistrate, explaining that it was made at the instigation of the Police and in consequence of his being tortured thereto; and before the Sessions Court also the Accused denied all

Concern

Concern in the offence. But he admitted before the Sessions Court that the cloth E^1 and jacket E^2, which were being worn by him when arrested and contained marks of blood, are his; and he explained the blood stains by saying that they were caus-ed by his falling on his wife on finding her lying dead when he returned home at 5 O'clock in the evening.

The Accused's story is that he was not at the house on the night on which his wife was killed - that he had gone away at 6 P.M. "to work as a Coolie," and did not come home till 5 A.M. next day, when seeing his wife lying dead and "being afraid" he left the place. Witnesses for the prosecution swear, on the other hand, that Accused was in his house on the night in question and that he and the deceased were

quarrelling

quarrelling, and only ceased to doing on being told by the witness Syed Hussain not to create such a disturbance.

No good reason is shown for discrediting the evidence of these witnesses. It has been urged by Mr. Evers for the defence that the reasons assigned for the quarrel are conflicting. One witness say: ing it was about the cooking and another that it was about cohabiting. But these contradictions are more apparent than real, for the witnesses who speak to quarrels about cooking refer to previous quarrels.

On a consideration of the whole evidence and the Accused's own Statements before the Committing Magistrate and at his trial before the Sessions Court, there seems to be no room for doubt as to the Accused Kasim Sab being the person who killed his wife by throwing the stone

stone on her head.

From his first statement before the Committing Magistrate it would appear that the offence was not committed under grave and sudden provocation, for he has stated as follows:- "My wife was lying when I murdered her. I do not know whether she was sleeping then or awake." The fact of none of the neighbours having heard (no) cries is also any consistent with this Statement of the Accused.

We are constrained to find the Accused Kassim Sali guilty of the murder of his wife, and in the absence of any extenuating circumstances, we have no option but to sentence him to death, under Section 302 of the Penal Code. We direct that

he

he be hanged by the neck till he is dead.

/ Signed J. W. Best.
Chief Judge

/ Signed C. Meenakshya
Judge.

Copy

Signature illegible
Government Advocate.

To (4)

The Registrar of the Chief Court
Mysore

No: 6426
J 745 23-12-96.

Section Courts
File No 2-95
Serial No 4

Has the honour to request that the entire records in Cr. Appeal Case No. 201 of 1895-96 on the file of the Chief Court [Case No. 8 of 95-96 on the file of the Dy Sessions Judge: Govt. versus Nasir Sab alias Hussain Sab] may be forwarded at an early date for the perusal of ~~the Court~~ reference.

23/12/96
for Secy

(5

(General Serial No. 30.)

1896

OFFICE OF THE
4818
OF MYSORE

Section Courts
File No From 2-95
Serial No 5

The Registrar of the
Chief Court of Mysore

To.

The ~~General~~ Secretary
to the Government of Mysore.

Dated 5 Dec/96

Despatched 7 —

Received 8 —

Enclosures No. Records ~~sent~~ ~~separately~~

General No. 3139
No. 136

Forwards record in
Criminal appeal No. 201
of 1895/96 on the file of
this Court —

XX

Rec

7-12-96

Read
& Refer put up

9/12/96

Enquire whether the ... has
evidence before the ... Court ... and if so,
... with the ... Court ... and ... Assessors

9/12/96

Central Jail Press, Bangalore.—18-12-95.—502.

No 3139 In: Records 136

(5)

Bangalore 5th December 1896.

From,

The Registrar of the
Chief Court of Mysore.

To,

The Secretary to the
Government of Mysore.
Bangalore.

Sir,

(4) With reference to Your docket No 6426/1745 dated 3d December 1896, I am directed to forward the record in Criminal Appeal No. 201 of 1895-96 on the file of this Court and to request that the same may be returned when no longer required.

I have the honor to be,

Sir,

Your most obedient Servant,

A. Venkatarama

Ag. Registrar

ZR.

189 (6)

Section Courts
File No 295
Serial No 6

From The ~~General~~ Secretary to the Government of Mysore.

To The District Magistrate Mysore.

Dated 9-12-96
Despatched
Received
General No. 6660
No. 767
Enclosure No.

Has the honour to request that the records in Mysore Sessions Case No. 8 of 1895-96 (Govt ~~vs~~ Kassim Sab) returned to him by the Govt Advocate may be at once forwarded to this Office for reference.

By Order
for Secretary

No. 995
Enclosures No. —

DEPUTY COMMISSIONER'S OFFICE,
MYSORE DISTRICT,
Dated Mysore 15th Decr. 1896.

Section Courts
No 2-95
Serial No 7

To

The Secretary to the Government of Mysore,
Revenue and General Departments.

SIR,

With reference to your docket No 6660/767 of the 9th December 1896, calling for record in Mysore Sessions Case No 8 of 1895-96 (Govt ~~of~~ Kasim Sab), I have the honor to state that the Mysore Sessions Judge to whom the record in question had been returned, says in his Kanarese Yadi No 584/241 that it was sent to the Chief Court with his docket No 2924/489 of the 5th December 1896 for favour of transmission to Government.

I have the honor to be
Sir
Your most Obedt Servant

Deputy Commissioner
of the Mysore District

compo.
nky.

1896-97

7

5194

J 751

From.

The Deputy Commissioner
of the Mysore District

To The Secretary to the
Government of Mysore.
Revenue & Genl Depts

Dated 15
Recd. } December 1896.
Recd 18—

Enclosures

No 99

Informs that the record in Mysore Sessions Case No 8 of 1895-96 (Govt No 95 Kasim Sab) was sent by the Sessions Judge to the Chief Court for transmission to Govt.

J 17-12-96

Refers put up
BRR
19/12/96

Encl receipt from the Ch Court with a memorial from the Prisoner on 18-12-96 put up with J. 13 of 1896-97 re memorial addressed [illegible]

(General Serial No. 30.)

OFFICE OF THE 1896-97
5-197
C.R. & I. Branch
CHIEF COMMISSIONER
MYSORE

8

From J 755
The Registrar of the
Chief Court of Mysore.

Section Cowrt
File No 2-95
Serial No 8 To
The ~~General~~ Secretary
to the Government of Mysore.

Dated 16: Dec: 96
Despatched 16
Received 17/12/96
18

Enclosures No. 3

General No. 3313
No. 145

Forwards the accompanying Memorial to Her Highness the Maharani Regent of Mysore prepared by Kasim Saib alias Hassan Saib accused in Mysore Sessions case N: 8 of 1895/96 & Criminal appeal N: 201 of 1895/96 on the file of this Court.

Jrd 17-12-96

Central Jail Press, Bangalore.—18-12-95.—502.

N 3314 Sn: 3
125

Bangalore 16th December 1896

From

The Registrar of the
Chief Court of Mysore

To

The Secretary to the
Government of Mysore
Revenue and General Departments
Bangalore

Sir,

I am directed to forward the accompanying memorial to Her Highness the Maharani Regent of Mysore, preferred by Kassim Saib alias Hussain Saib, accused in Mysore Sessions case no. 8 of 1895-96, and Criminal Appeal no. 201 of 1895-96 on the file of the Chief Court, together with translation thereof, and the marginally noted records (to be obligingly returned when no longer required).

2. The Sessions Judge of Mysore has this day been directed to stay the execution of the sentence pending the disposal of the prisoner's memorial to Her Highness.

I have the honor to be,
Sir,
your most obedient Servant,

A Lakshmana
Ag Registrar

Record in Mysore Sessions case no. 8 of 1895-96, on the file of the Sessions Judge of Mysore.
- do - Criminal case no. 22 of - do - 2nd General Asstt. Commissioner and 1st Class Magistrate of Mysore.
- do - Criminal Appeal no. 201 of 1895-96 on the file of Chief Court has already been sent with this office no. 3139/136 of the 5th instant.

TRL

To

Her Highness the Regent Maharanee
Impore

The humble memorial of Khasim
Sab alias Hussain Sab, who has been
sentenced to death by the Chief Court
in Criminal Appeal no 201 of 95-96

I most respectfully beg to state
that I was charged with the offence of
having murdered my wife, but I
was acquitted by the Sessions Court.
After the lapse of about a year,
the Chief Court has passed a sentence
of death against me. I know nothing.
As I was innocent, I was peaceably
living in my house without going abroad
as a real culprit would have done.
I have unjustly been charged and sentenced
to extreme penalty of the Law. As I have
none who would afford me shelter except
Your Highness, I most humbly and respectfully
beg that Your Highness will be pleased
to commute the sentence of death to a
punishment of any other kind and thus
save me, a poor man, from being hanged.
2. 12. 96 mark of the accused

By Armugam
Superintendent, Impore jail
3. 12. 96

Translation

[illegible]

[illegible] 96

MVB

Mark of Khasim Sab alias Hussain Sab.

Sd/-

[illegible]

Superintendent

Mysore Jail

3/12/96

In the Chief Court of Mysore at Bangalore

Saturday the 14th day of November 1896

Present

Mr. Justice J. W. Best Chief Judge

and

Mr. Justice C. Menacshaya Judge

Criminal Appeal No. 201 of 1895-96

Government of Mysore ... Appellant

(By the Government Advocate
on behalf of Government)

~~HS~~

Kassim Sab alias
Hussain Sab ... Respondent (Accused)

Appeal against the order of acquittal passed by the Sessions Judge of Mysore in Mysore Sessions Case No. 8 of 1895-96.

This appeal coming on for hearing on Friday the 13th day of November

November 1876 the Court delivered the following.

Judgement

This is an appeal by Government against the order of the Sessions Judge of Ashtagram Division acquitting the accused, who was tried on a charge of murdering his wife Ameena Bi. On the morning of the 13th August last, the second witness Fatima Bi went to the house of the deceased to fetch a pestle when receiving no answer to her calls she pushed the door open and found the deceased lying with blood about her. The witness called out and other witnesses came to the place and found Ameena Bi was dead with a wound on her head and a stone

lying

lying near. The medical evidence is to the effect that the death was the result of fracture of the skull caused by external violence. The medical evidence is not altogether satisfactory as the Hospital Assistant contradicts the other witnesses by saying there were no external injuries on the head, but it is clear from the evidence that the skull was fractured. The accused in his first statement (A) before the Committing Magistrate admitted that he threw a stone at the head of his wife and then ran away. He subsequently retracted this statement before the same Magistrate, explaining that it was made at the instigation of the Police and in consequence of his being tortured

thereto

thereto, and before the Sessions Court also the accused denied all concern in the offence. But he admitted before the Sessions Court that the cloth & and jacket &, which were being worn by him when arrested and contained marks of blood are his, and he explained the blood stains by saying that they were caused by his falling on his wife on finding her lying dead when he returned home at 5 Oclock in the morning.

The accused's story is that he was not at the house on the night on which his wife was killed, that he had gone away at 6 P.M. to work as a cooly, and did not come home till 5 A.M. next day, when seeing his wife lying dead and being afraid, he left the place"

Witnesses

Witnesses for the prosecution swear, on the other hand that accused was in his house on the night in question and that he and the deceased were quarrelling and only ceased so doing on being told by the witness Syed Hassan not to create such a disturbance.

No good reason is shown for discrediting the evidence of these witnesses. It has been urged by Mr. Evers for the defence that the reasons assigned for the quarrel are conflicting. One witness saying it was about the cooking and another that it was about cohabiting. But these contradictions are more apparent than real, for the witnesses who speak to quarrels about cooking refer to previous quarrels

quarreds.

On a consideration of the whole evidence and the accused's own statements before the Committing Magistrate and at his trial before the Sessions Court, there seems to be no room for doubt as to the accused Kassim saib being the person who killed his wife by throwing the stone on her head.

From his first statement before the Committing Magistrate it would appear that the offence was not committed under grave and sudden provocation, for he has stated as follows:- "My wife was lying when I murdered her. I do not know whether she was sleeping then or awake." The fact of none of the neighbours having heard any cries is also consistent with

this

this statement of the accused.

We are constrained to find the accused Kassim Saib guilty of the murder of his wife and, in the absence of any extenuating circumstances, we have no option but to sentence him to death, under section 302 of Penal Code. We direct that he be hanged by the neck till he is dea

A true Copy
H Humphreys
A/ Registrar

Nitu

Copy applied for this the Supt Mysore Jail 23-11-96
Rec'd 27-11-96
ready 30-11-96.
Despatched — 30-11-96

H Humphreys
A/ Registrar

OFFICE OF THE GOVERNMENT OF MYSORE.

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No 8106 / 8940 Sec. 173 file of records. Dated Bangalore, 18th January 97

From

The ~~General~~ Secretary to the Government of Mysore.

To

The Registrar of the Chief Court of Mysore.

Section Courts
No 295
Serial No 9

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the prisoner Kassim Sab alias Hassain Sab sentences to death & to Chief Court in Criminal appeal No 201 of 1895-96 & ~~undergoing sentence of death~~ detained in the Mysore Jail, copy of order passed by H. H. the Maharani Regent of Mysore, on the prisoner's memorial.

2. The entire records received with your letter No. 3313/165 dated 16th December 1896 are herewith returned.

I have the honor to be,

SIR,

Your most obedient servant.

18/1/97

~~General~~ Secretary.